

DIVORCE WITH CHILDREN

(This outline includes both “contested” and “un-contested” divorce instructions.)

Ignorance of the law excuses no man: Not that all men know the law, but because 'tis an excuse every man will plead, and no man can tell how to refute him.

John Selden
English antiquarian & jurist

As a *Pro Se* Litigant you are representing yourself and therefore are responsible for all documents you file with the Court or present to the Judge. Please read all documents and instructions carefully. If you need assistance with understanding forms or procedures, the Court Facilitator may review forms you have prepared yourself, answer questions, or help you with procedures.

- **THE COURT FACILITATOR CANNOT GIVE LEGAL ADVICE.**
- The Court Facilitator does not represent you and may also assist your spouse.
- There is a \$40 (cash only) fee per one hour appointment, payable to the Island County Superior Court Clerk before your appointment.
- Walk-in hours are Wednesdays between the hours of 11 a.m. and 4 p.m., 15 minutes per person.
- To schedule an appointment call **(360) 678-7981** or email **d.mehlhaff@co.island.wa.us**

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1. **Obtain and prepare the necessary forms.** You may purchase a packet of forms from the Island County Superior Court Clerk or you may download forms for free at the following websites:

www.courts.wa.gov/forms	(Standardized Washington State Forms)
www.islandcounty.net/superiorcourt	(Island County Local Court Rules and Forms)

2. **To file for *Divorce with Children*, the following forms must be completed:**

_____ Petition for Divorce	FL Divorce 201
_____ Summons: Notice about a Marriage	FL Divorce 200
_____ Certificate of Dissolution	DOH 422-027
_____ Confidential Information Form	FL All Family 002
_____ Attachment to Confidential Information Form <i>(for Additional Parties or Children)</i>	FL All Family 001
_____ Parenting Plan (Proposed)	FL All Family 140
_____ Child Support Worksheets	WSCSS Worksheets

The Court Facilitator can help you calculate child support or you can prepare a ***Child Support Worksheet*** using the Child Support Calculator found at: <https://fortress.wa.gov/dshs/dcs/SSGen/Home>

(**Note:** If your spouse completes the ***Agreement to Join Petition*** or ***Service Accepted***, or agrees to join the ***Petition*** by signing the agreement on the last page of the ***Petition***, service of the ***Petition*** and ***Summons*** is not necessary.)

3. **Make copies of all forms you have completed, except the *Confidential Information Form*.** The Superior Court Clerk's office will keep the original documents for your Court file; you will need a set of copies for yourself and another set to serve on the other party. It is important to keep a copy of these documents; you will need to refer to them when you prepare for your final Divorce Hearing.
4. **File the original documents with the Island County Superior Court Clerk in Coupeville** (101 NE Sixth Street). The filing fee is payable only in cash, money order, or cashier's check; the Superior Court Clerk will inform you of the current fee amount. The fee may be waived in some cases. The forms necessary for obtaining a fee waiver are available on the State website or at Island County Superior Court Administration. (**Note:** If you obtain a fee waiver to file your divorce documents, the Court Facilitator fees will also be waived.)
5. **At the time of filing a *Court's Temporary Order Re: SPR 94.04* is imposed which limits what the parties can do while their divorce is pending and until the Court finalizes the divorce.** Review the ***Order*** carefully. (**Note:** This is not a restraining order that prohibits the parties from contacting each other.) The Superior Court Clerk's office will give you a copy of the ***Order***. You must serve the other party with a copy of the ***Order***. The ***Order*** is binding on the Petitioner from the date of filing and Respondent from the date of service.
6. **Serve the other party with a copy of the documents you prepared and the *Court's Temporary Order*; do not include the *Confidential Information Form*.** Personal service must be completed by a person who is over the age of 18, a United States citizen, and not involved in the case. (**Note:** You may not complete the personal service; it must be by a third party.) The person completing service must complete a:

_____ **Proof of Personal Service**

FL All Family 101

Proof of Personal Service* is very important;** all documents being served must be noted along with the date, time, and location service is completed. Make a copy and file the original ***Proof of Personal Service at the Superior Court Clerk's office.

The Island County Sheriff's office may serve the documents for a fee if the other party resides in Island County. If the other party does not reside in Island County, contact the Sheriff's office, or a Process Server, in the county in which he/she lives.

Your spouse has **20 days** (if served in Washington) or **60 days** (if served outside Washington) to file a ***Response*** to your ***Petition***. If you need to serve by mail or publication, you must ask the Court for permission to do so and follow the instructions in the ***Order*** allowing this alternate type of service.

7. **Both parties must prepare a:**

_____ **Financial Declaration**

FL All Family 131

_____ **Sealed Financial Source Documents**

FL All Family 011

_____ **Verified Statement of Assets and Liabilities**

Local Court Form

LOCAL COURT RULE SPR 94.04 (d) *Financial Declarations and Verified Statement of Assets and Liabilities.* Within 30 days after the filing of an answer or other responsive pleading in any of the actions specified in SPR 94.04 (a), each party shall serve the opposing party with (1) a ***Financial Declaration*** and all attachments in all cases involving a request for child support, maintenance, or attorney fees, and (2) a ***Verified Statement of Assets and Liabilities*** (Local Court Form). The ***Financial Declaration*** shall be filed with the Court. All parties have a duty to supplement the documents when additional information becomes available. Each party shall file with the Court a ***Declaration of Mailing*** (Local Court Form) that the ***Financial Declaration*** and all attachments, and the ***Verified Statements of Assets and Liabilities*** have been provided to the other party within the **30-day time limit**.

8. **Respondents:** If you are served with divorce documents and do not agree, you must file a:

_____ **Response to Petition About a Marriage**

FL Divorce 211

The ***Response*** must be filed within **20 days** (if served within Washington) or **60 days** (if served outside of Washington). File your ***Response*** with the Superior Court Clerk's office and send a copy "certified mail return receipt requested" to the Petitioner at the address indicated on the ***Summons***. You may also want to file and send your own ***Proposed Parenting Plan*** and ***Child Support Worksheets***.

9. **Default orders:** If your spouse does not file a ***Response*** to your ***Petition*** within the allowed time, you may present a:

_____ **Motion for Default**

FL All Family 161

_____ **Order on Motion for Default**

FL All Family 162

You may present the ***Motion*** and ***Order for Default*** to the Judge on the Court's *Ex-Parte* Calendar or on the *Pro Se* Dissolution Calendar when finalizing your divorce. If the Judge signs an ***Order on Motion for Default*** then you can finalize your case without your spouse's participation or signature. If obtaining a default, it is important to remember that all your final documents must match the documents originally filed and served to the Respondent. (**Note:** Even if you obtain an ***Order on Motion for Default*** you still cannot finish your divorce before **90 days** from the day after the date your spouse was served.)

10. **LOCAL COURT RULE SPR 94.04 (e) Parenting Seminars.** This rule shall apply to all cases in which the Court is being asked to enter a parenting plan for minor children.

(1) ***Mandatory Attendance.*** Unless waived as provided herein, within 30 days of filing an appearance, answer or other responsive pleading in an action involving a parenting plan for minor children, both parties shall register for a Court-approved parent education seminar on the effects of family transitions on children, unless the parties have previously attended such a course within the last three years. Each party shall attend the seminar within 60 days of registering.

(2) ***Certificate of Completion.*** Upon completion of the seminar, each party shall file with the Court the seminar completion certificate provided by the sponsoring agency or provider. Additionally, a copy of the certificate of completion shall be provided to the Judge at presentation of final documents.

- **ISLAND COUNTY DOES NOT ACCEPT ONLINE PARENTING SEMINAR CERTIFICATES.**

(3) ***Fees.*** Each party attending a seminar shall pay a fee charged by the approved provider and authorized by the Court.

- (4) **Seminar Providers.** The Court shall establish standards for parenting seminars and shall approve seminar providers. A list of approved parenting seminars shall be available from the Court Administrator, Juvenile Court Administrator, or County Clerk. If a parenting seminar is not included on the list, then the Court, upon proper motion, may allow other seminar providers to fulfill this requirement on a case-by-case basis.

- The Parenting Seminar ***“Helping Children through Divorce”*** is the only class available on Whidbey Island that satisfies this requirement. There is only one class per month so you must plan accordingly.
- Sign up for the seminar by calling (360) 279-9222 or (360) 341-1955.
- Permission to attend another parenting seminar must be obtained from the Court by presenting a ***Motion*** and ***Order*** to the Judge at an *Ex Parte* Hearing **BEFORE** you attend your final Divorce Hearing.
- **YOU MUST ATTEND AN “IN-PERSON” SEMINAR; ISLAND COUNTY DOES NOT ACCEPT ONLINE PARENTING SEMINARS.**

(5) ***Waiver and Special Consideration***

- (A) ***Opposing Parties.*** In no case shall opposing parties be required to attend a seminar together.
- (B) ***Domestic Violence or Abuse.*** Upon a showing of domestic violence or abuse which would not require mutual decision-making pursuant to RCW 26.09.191, or if the Court determines that attendance at a seminar is not in the children’s best interest pursuant to Ch. 26.12 RCW, the Court shall either waive the requirement of completion of the seminar or allow participation in an alternative parenting seminar if available.
- (C) ***Proposed Parenting Plan Required.*** Within 14 days of completing the parenting seminar as described above, each parent shall provide other parent with a Proposed Parenting Plan, if they have not already done so.
- (D) ***Willful Refusal.*** Willful refusal to participate in a parenting seminar or willful delay in completing a court-ordered parenting seminar may result in a finding of contempt and imposition of sanctions.

11. **LOCAL COURT RULE SPR 94.04 (i) Parenting Plans and Child Support Orders Submitted by *Pro Se* Parties – Review.** In any action in which the residential care or child support of a minor child or children is at issue and in which none of the parties are represented by counsel, the parenting plan and child support documents shall first be reviewed, approved and initialed by the Court Facilitator in the county in which the action is pending, or if there is no Court Facilitator, by the Juvenile Court Administrator. A proposed parenting plan does not need to be initialed and approved before filing, but any parenting plan submitted for Court approval must be so initialed and approved before the Court will consider it.

(Note: You must schedule an appointment with the Court Facilitator to have your ***final Parenting Plan, Child Support Worksheet, Child Support Order, and Residential Time Summary Report*** initialed **BEFORE** your final Divorce Hearing.)

12. **LOCAL COURT RULE SPR 94.04 (f) Mandatory Mediation.**

- (1) ***Requirement for Mandatory Mediation.*** In all cases specified in SPR 94.04 (a) with unresolved issues, both parties shall in good faith engage in mediation with a court-approved mediator in an effort to resolve the case, unless waived as set forth herein. Mediation shall be completed at least 60 days prior to the scheduled trial date.

- (2) **Waiver of Mandatory Mediation.** Mediation shall not be required in the following cases:
- (A) **Good Cause.** For good cause shown upon motion and approval by the Court; or
 - (B) **Restraining or Protection Order.** Where a domestic violence restraining order or protection order (excluding *ex parte* orders) involving the parties has been entered by a Court at any time within the previous 12 months;
 - (C) **No Contact Order.** Where a domestic violence no contact order exists pursuant to RCW 10.99;
 - (D) **Domestic Abuse.** Where the Court upon motion finds that domestic abuse has occurred between the parties and that such abuse would interfere with arm's-length mediation.
 - (E) **Order to Require Mediation.** Notwithstanding the foregoing, either party may by motion seek a Court order requiring mandatory mediation in a case where it would not be required if the moving party believes that the parties would be able to mediate their dispute at arm's length under the particular circumstances of the case.
- (3) **Settlement Conference After Mandatory Mediation.** If, after mediation in good faith or where mediation is not required, there remain unresolved issues in any case specified by in SPR 94.04 (a), the parties may participate in a settlement conference pursuant to LCR 16 (d).
- (4) **Effect on Court Proceedings.** Mediation does not stay or otherwise affect the rights and duties of the parties established by statute, court rule, or court order. The Court may enter temporary orders and the parties may conduct discovery prior to or during the mediation process.
- (5) **Cost of Mediation.** Mediators shall be paid by the parties in accordance with the agreement of the parties, or in the absence of agreement, as determined in mediation.
- (6) **Responsibility for Compliance.** The parties shall be responsible for arranging for and completing all mediation requirements established under this rule.
- (7) **Failure to Comply with Mandatory Mediation.** Willful refusal to participate in mediation or willful delay in completing mediation may result in a finding of contempt and imposition of sanctions.
- (8) **Approval of Mediators.** Mediators performing mediation services pursuant to this rule must fulfill certain minimum qualifications established by the Court. The Court Administrator shall maintain a list of such minimum qualifications for distribution to the public. In order to fulfill the mediation requirements of this rule, the parties must use the services of a Court-approved mediator. The Court Administrator shall maintain a list of approved mediators, either persons or agencies, for distribution to the public. The list shall contain the following information: each mediator's name, organization, if any, address and telephone number, and fee schedule.
- <https://www.islandcountywa.gov/superiorcourt/pages/mandatorymediation.aspx>
- (9) **Selection of Mediator; Right of Mediator to Decline.** The parties may either agree to a mediator from the Court-approved list or the mediator will be determined by use of a strike list. A mediator has the right to decline to serve in a particular case. If a mediator declines to serve, the parties shall select a different mediator, using the same selection process by which the preceding mediator was selected.
- (10) **Authority of Mediator.** The mediator has the authority to determine the time, place, manner, and duration of mediation. In appropriate cases, the mediator shall have the authority to terminate the mediation prior to completion.

- (11) **Attendance at Mediation.** The parties shall personally attend all mediation sessions, unless the mediator permits telephonic or other attendance. The mediator shall have the authority to require other persons to attend.
- (12) **Declaration of Completion of Mediation.** Within seven (7) days of completion of mediation, a declaration that mediation has been completed shall be filed with the Court by the mediator. The mediator shall advise counsel and the parties of the results of mediation in writing. The mediator shall advise the Court only whether an agreement has been reached on some or all of the issues.
- (13) **Confidentiality. (See RCW 5.60.070).** The work product of the mediator and all communications during the mediation shall be privileged and confidential and not subject to compulsory disclosure. The mediator shall not appear to testify in any Court proceedings.

13. **Schedule your AGREED final Divorce Hearing after meeting with the Court Facilitator.**

- Call the Superior Court Clerk's Office **(360) 679-7359** and ask to be put on the **Pro Se Agreed Dissolution Calendar**. *Pro Se* Dissolutions are heard on Wednesdays at 8:30 a.m.
- When you call you must give the Clerk the date that your 90 days are up so they can schedule you for the first available Court date after your 90 days. Start counting your 90 days the day after your spouse was served or joined the **Petition for Divorce**. (**Note:** The Superior Court Clerk will not tell you when your 90 days are complete; you will need to provide this information.)
- Both parties must fill out and file a:

_____ **Supplemental Confidential Information Form**

Local Court Form

Each party must provide the required information on all people (including themselves) over the age of 11 living in their household. Submit the form to the Island County Superior Court Administration at least **10 days** before the date of your Divorce Hearing.

- If you obtained an **Order on Motion for Default**, or if you and your spouse have reached an agreement, complete and bring all documents listed below with you to your Divorce Hearing. If you are finishing your divorce by default, make sure all your final orders are filled out **exactly the same** as the documents your spouse was served with in the beginning.

14. **Bring all your prepared, signed orders to the AGREED final Divorce Hearing.**

_____ **Parenting Plan (Final)**

FL All Family 140

_____ **Residential Time Summary Report**

FL Divorce 243

_____ **Child Support Worksheets**

WSCSS Worksheets

_____ **Child Support Order**

FL All Family 130

_____ **Findings and Conclusions About a Marriage**

FL Divorce 231

_____ **Final Divorce Order**

FL Divorce 231

15. **If Mediation does not resolve your contested issues and if you cannot come to an agreement on your own, fill out and file a *Note for Trial Setting* (Local Court Form).** The ***Note for Trial Setting*** is your request to have a ***Trial Date*** assigned to your case.

- On the line that says “Date requested for trial assignment” pick a Monday that is at least two weeks away. You will not have to appear in Court on that Monday, it is just the date that the Court Administrator will be reviewing your file and assigning you a ***Trial Date*** and a ***Readiness Hearing***.
 - If there are dates that you will not be available for trial, fill out and file a ***Notice of Conflict Dates*** (Local Court Form) when you file your ***Note of Trial Setting***. **You must serve the other party with a copy of the *Note for Trial Setting* and any *Notice of Conflict Dates*.**
 - The Court will send you and the other party notice of your ***Readiness Hearing*** and your ***Trial Date***.
 - **If you are not represented by an attorney, you must meet with the Court Facilitator to review your final orders PRIOR to trial.** Arrange an appointment at least 2 weeks before your trial.
 - **You must confirm your trial with Court Administration by not later than 12 noon two (2) days prior to the trial or it will be stricken. Call (360) 679-7361 to confirm.**
16. ***Courtesy (Working) Copies.*** Approximately one (1) week before your trial date, it is requested that you provide the Judge with a “courtesy copy” of the documents you will be presenting at trial.

LCR 5 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS.

(3) ***Courtesy Copies for Judges.*** Courtesy copies of pleadings and other papers shall be provided to the Court Administrator’s office for the Judge assigned to the case at the same time as such pleadings and other papers are required to be served on the opposing party. Such courtesy copies shall have the words “Judge’s Courtesy Copy” in the upper right hand corner of the first page, the Judge’s name, and the date and time of the Hearing. Courtesy copies are discarded after ten (10) days from the assigned Hearing date. It is the responsibility of the parties or counsel to provide new courtesy copies to the Judge thereafter as provided herein.

17. **There are specific requirements and procedures related to trial preparation.** It is strongly suggested that you purchase a copy of Island County’s ***Local Court Rules*** at the Court Administrator’s Office, or download a copy from the Island County Superior Court website. Be sure you are familiar with the rules related to trials and that you follow the required procedures. **This outline does not cover trial preparation. You may want to seek legal advice from an attorney.**
18. **Go to your trial with all the completed documents listed in #14 above.**

IMPORTANT: This checklist is not a substitute for legal advice. Before starting any legal action, it is always wise to consult an Attorney regarding your rights and responsibilities. Many Attorneys offer consultations. The Court Facilitator cannot give legal advice. **ONLY AN ATTORNEY CAN GIVE LEGAL ADVICE.**

Island County Superior Court Ex-Parte Calendar

Mondays at 9:30 a.m.

Tuesdays through Fridays 1 p.m.

You must check in with the Superior Court Clerk's Office at least 45 minutes before the court time.

Island County Pro-Se Dissolution Calendar

Wednesdays at 8:30 a.m.

You must check in with the Superior Court Clerk's Office no later than 8:15 a.m.

HELPFUL WEBSITES:

www.islandcounty.net/superiorcourt	(general information, local forms and rules)
www.nwjustice.org	(general information and links to other resources)
www.washingtonlawhelp.org	(general information and sample forms)
www.courts.wa.gov	(forms and other information)
www.dshs.wa.gov/doc	(information on child support & calculator)

HELPFUL PHONE NUMBERS:

Island County Court Facilitator	(360) 678-7981
Island County Superior Court Clerk's Office	(360) 679-7359
Island County Superior Court Administration	(360) 679-7361
CLEAR Referral Line for Volunteer Lawyer Program	(888) 201-1014

Format and Style Rules for Mandatory Forms

Developed Pursuant to RCW 26.18.220

(May 2016)

For complete information, consult the Family Law Format and Style Rules (May 2016) at: www.courts.wa.gov/forms.

DIVORCE ACTION
PROPERTY AND DEBT DIVISION – INSTRUCTIONS

FINDINGS AND CONCLUSIONS ABOUT A MARRIAGE (FL Divorce 231)

List all property.

If you and your spouse bought something during the marriage, it generally is *community property* and goes under paragraph **8. Real Property** and **9. Community Personal Property**.

If the property was brought into the marriage and the other party's name is not on the title, such as a house, or land, or a car then list the property under *separate property* for the party who brought the property into the marriage paragraph **10. Separate Personal Property**

Note: This is not the document where you decide who gets to keep the property; it is just a list of the property.

List all debts, whether incurred by you or your spouse.

If you and your spouse incurred a debt during the marriage, generally it is categorized as a *community debt* and listed under the community debt section, paragraph **11. Community Debt**.

Note: This is not the document where you decide who has to pay the debt; it is just the list of the debts.

If you or your spouse incurred a debt before the marriage and the debt still exists, or if you or your spouse incurred a debt following your separation, then that debt is generally categorized as a *separate debt* and listed under the separate debt section for the party who incurred it, paragraph **12. Separate Debt**.

FINAL DIVORCE ORDER (DISSOLUTION DECREE) (FL Divorce 241)

This is the form used to say which party gets what property or who has to pay which debts; use the information from the **Findings and Conclusions about a Marriage**, paragraphs **8. Real Property**, **9. Community Personal Property**, **10. Separate Personal Property**, **11. Community Debt**, and **12. Separate Debt**.

ALL of the property and debts listed in the **Findings and Conclusions about a Marriage** must be distributed or awarded to the petitioner or respondent. If the property or debt was *separate property* or *separate debt*, as noted in the **Findings and Conclusions about a Marriage**, then list the property or debt as appropriate in the **Final Divorce Order** under the following paragraphs: **7. Real Property**, **8. Petitioner's Personal Property**, **9. Respondent's Personal Property**, **10. Petitioner's Debt**, and **11. Respondent's Debt**.

To avoid delays, have your spouse sign the FINDINGS AND CONCLUSIONS ABOUT A MARRIAGE and the FINAL DIVORCE ORDER.

IF YOU FAIL:

- (1) TO FULLY COMPLETE THE LIST OF PROPERTY/DEBTS IN THE FINDINGS CONCLUSIONS ABOUT A MARRIAGE, or
- (2) TO DISTRIBUTE ALL THE PROPERTY/DEBTS IN THE FINAL DIVORCE ORDER

THE JUDGE MAY NOT SIGN YOUR FINAL PAPERS AND MAY NOT DISSOLVE YOUR MARRIAGE UNTIL THE PROPERTY AND DEBT LIST AND DISTRIBUTION IS CORRECTLY COMPLETED.

YOU MAY HAVE TO RESCHEDULE YOUR HEARING DATE UNTIL THIS IS COMPLETED.

IMPORTANT: This information is intended for informational purposes only and under no circumstances should it be considered legal advice or relied upon without first confirming its content with your attorney.